

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7275

BILL NUMBER: SB 469

NOTE PREPARED: Jan 8, 2004

BILL AMENDED:

SUBJECT: Securities and Loan Brokers.

FIRST AUTHOR: Sen. Clark

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☐ **DEDICATED**
☐ **FEDERAL**

IMPACT: State

Summary of Legislation: This bill voids provisions in an agreement to purchase a security that would waive compliance with securities law or a rule or order made under securities law. It increases a security broker's registration fee from 0.05% to 0.10% of the maximum total offering price at which securities are to be offered in Indiana. It increases the minimum registration fee from \$250 to \$300 and the maximum registration fee from \$1,000 to \$2,000 for a security broker.

The bill provides a procedure for an issuer of securities to respond to comments regarding an application for registration made by the Securities Division. It permits the appointment of a Securities Division attorney to serve as a special deputy prosecutor in actions arising under securities law. It prohibits the issuance of an interpretive opinion by the Securities Commissioner concerning an activity that occurred before or is occurring on the date that the opinion is requested. It also requires that notice and opportunity to be heard must be provided to a person accused of violating securities law, rather than requiring that a hearing occur as provided by current law.

The bill prohibits various deceptive practices by a person that supplies information concerning securities. It extends liability under securities law to include a variety of persons that are engaged in business with a person liable under current law. It provides that an administrative action under securities law survives the death of a person who might have been a respondent. The bill makes changes to definitions used in the loan broker statutes. It also requires payment of a \$25 registration fee for each employee or potential employee participating in loan origination activities.

Effective Date: July 1, 2004.

Explanation of State Expenditures: *Securities Division Attorney* - This provision permits the prosecuting attorney to appoint a Securities Division attorney to serve as a special deputy prosecutor in actions arising under securities law. The Secretary of State has one attorney vacancy as of January 2004. If an additional PAT I is required, the cost would be \$55,300 in FY 2005 and \$55,580 in FY 2006. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. The agency reverted approximately \$32,500 in FY 2003. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Notice & Opportunity for Hearing - Currently, a hearing must be held before the Commissioner may impose a civil penalty upon a person who has violated securities regulation law. This provision makes it so that a hearing is not required, but the opportunity for one must be allowed. A notice must also be issued by the Commissioner. This provision should have a minimal fiscal impact. Expenditures could be reduced if fewer hearings are held, however, additional expenditures may be required to issue notices.

Explanation of State Revenues: *Securities Registration* - This provision increases the registration fee for securities from 0.05% to 0.10% of the maximum aggregate offering price. The minimum fee of \$250 is increased to \$300, and the maximum fee is increased from \$1,000 to \$2,000. The bill also provides for the Commissioner to retain 100% of the fee when a registration is withdrawn under certain circumstances. Currently, the Commissioner retains \$250 of the registration fee. Revenue from any increased registration fees collected under this provision will be deposited in the state General Fund.

Interpretive Opinions - This provision prohibits a person from requesting an interpretive opinion for an activity that occurred before or on the date the request was made. The Commissioner charges a \$100 fee per opinion. If fewer opinions are requested, the Commissioner may experience a decrease in revenue from this source.

Loan Originator Registration Fee - As provided in statute, each person employed by a licensed loan brokerage business must be registered with the Commissioner. This bill imposes a \$25 fee for each employee and prospective employee of a licensee that engages in loan originations. As of January 2004, there were 8,000 loan originators registered among 1,250 loan brokerage firms. The \$25 fee would generate \$200,000 in revenue that would be deposited in the Loan Broker Regulation Account within the state General Fund. Originators are required to renew their registrations every two years.

Administrative Actions - This provision clarifies that administrative actions made under securities law survive the death of a person who may be a respondent. Such actions may involve civil penalties. If additional administrative actions are finalized due to this provision and civil penalties are involved, potentially there could be an increase in civil penalty revenue. This revenue is deposited in the Securities Division Enforcement Account.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Secretary of State.

Local Agencies Affected:

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